



February 28, 2000

Mr. Thomas G. Ricks
President
The University of Texas Investment Management Company
210 West Sixth Street, 2nd Floor
Austin, Texas 78701

OR2000-0732

Dear Mr. Ricks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132491.

The University of Texas Investment Management Company ("UTIMCO") received a request for seven categories of information. UTIMCO has already released to the requestor responsive information regarding six of the seven request categories. However, you request an attorney general decision in regard to the remaining request category which asks for information regarding legal bills from UTIMCO's private and/or public attorneys "since last batch sent or refused." You claim that portions of this requested information are excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. *See* Open Records Decision No. 574 (1990). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and client confidences. *Id.* In Open Records Decision No. 574, this office conclude that

[i]n general, the attorney's mere documentation of calls made, meetings attended, or memos sent is not protected under [the statutory predecessor to section 552.107(1)], if no notes revealing the attorney's legal advice or the client's confidences are included. Such documentation simply does not embody attorney-client communication.

ORD 574 at 7. *See also* Open Records Decision No. 589 (1991). We agree that most of the entries in the billing statements that you wish to withhold reveal the substance of privileged communications that have taken place between UTIMCO's attorneys and UTIMCO officials. However, several entries merely reveal the subject matter of legal issues without revealing

actual legal advice or client confidences. We have marked each entry at issue to indicate which ones UTIMCO may withhold pursuant to section 552.107 and which ones it must release.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

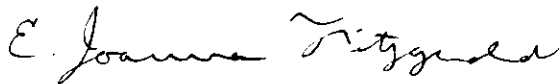
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

¹We note that the entries that do not fall under section 552.107, and which UTIMCO must therefore release, are also open under section 552.022(a)(16) of the Government Code.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "E. Joanna Fitzgerald".

E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 132491

Encl: Marked documents

cc: Mr. Stephen N. Lisson
Editor and Publisher
"Initiate!!" Magazine
P.O. Box 2013
Austin, Texas 78786-2013
(w/o enclosures)